

the total weight of the accepted product and the total weight of the rejected product shall be reported to the committee. The reworked lot shall be sampled and tested for aflatoxin as specified in § 983.38 except that the lot sample size and the test sample size shall be doubled. The reworked lot shall also be sampled and tested for the minimum quality requirements. If, after the lot has been reworked and tested, it fails the aflatoxin test for a second time, the lot may be shelled and the kernels reworked, sampled and tested in the manner specified for an original lot of kernels, or the failed lot may be used for non-human consumption or otherwise disposed of.

(d) *Kernel rework procedure for aflatoxin.* If pistachio kernel rework is selected as a remedy to meet the aflatoxin requirements of § 983.38, then 100% of the product within that lot shall be removed from the bulk and/or retail packaging containers and reworked to remove the portion of the lot that caused the failure. Reworking shall consist of mechanical, electronic or manual procedures normally used in the handling of pistachios. After the rework procedure has been completed the total weight of the accepted product and the total weight of the rejected product shall be reported to the committee. The reworked lot shall be sampled and tested for aflatoxin as specified in § 983.38.

(e) *Minimum quality rework procedure for inshell pistachios and kernels.* If rework is selected as a remedy to meet the minimum quality requirements of § 983.39, then 100% of the product within that lot shall be removed from the bulk and/or retail packaging containers and processed to remove the portion of the lot that caused the failure. Reworking shall consist of mechanical, electronic or manual procedures normally used in the handling of pistachios. The reworked lot shall be sampled and tested for the minimum quality requirements as specified in the minimum quality regulations of § 983.39.

EFFECTIVE DATE NOTE: At 72 FR 69141, Dec. 7, 2007, in § 983.40, paragraph (a), in paragraph (b), the words “and/or the minimum quality” in the first sentence, the words “either” and “or the minimum quality” in the second sentence, and the words “, and the handler,

under the supervision of an inspector, shall send the failed lot notification reports for the lots that do not meet the minimum quality requirements to the committee” in the third sentence, in paragraph (c), the fifth sentence, and paragraph (e) were suspended, effective December 10, 2007.

#### § 983.41 Testing of minimal quantities.

(a) *Aflatoxin.* Handlers who handle less than 1 million pounds of assessed weight per year, have the option of utilizing both of the following methods for testing for aflatoxin:

(1) The handler may have an inspector sample and test his or her entire inventory of hulled and dried pistachios for the aflatoxin certification before further processing.

(2) The handler may segregate receipts into various lots at the handler's discretion and have an inspector sample and test each specific lot. Any lots that have less than 15 ppb aflatoxin can be certified by an inspector to be negative as to aflatoxin. Any lots that are found to be above 15 ppb may be tested after reworking in the same manner as specified in § 983.38.

(b) *Minimum quality.* Handlers who handle less than 1 million pounds of assessed weight can apply to the committee for an exemption from minimum quality testing. If the committee grants an exemption, then the handler must pull and retain samples of the lots and make samples available for review by the committee. The handler shall maintain the samples for 90 days.

EFFECTIVE DATE NOTE: At 72 FR 69141, Dec. 7, 2007, in § 983.41, paragraph (b) was suspended, effective December 10, 2007.

#### § 983.42 Commingling.

After a lot is issued an aflatoxin inspection certificate and minimum quality certificate, it may be commingled with other certified lots.

EFFECTIVE DATE NOTE: At 72 FR 69141, Dec. 7, 2007, in § 983.42, the words “and minimum quality certificate” were suspended, effective December 10, 2007.

#### § 983.43 Reinspection.

The Secretary, upon recommendation of the committee, may establish rules and regulations to establish conditions under which pistachios would be subject to reinspection.